

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1311

Introduced by Assembly Member ~~Tran~~ Members *Duvall and Tran*

February 27, 2009

~~An act to amend Section 11125.4 of the Government Code, relating to public meetings. An act to amend Sections 12935, 14669, and 14670.12 of, and to repeal Section 8878.97 of, the Government Code, relating to state government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1311, as amended, ~~Tran~~ *Duvall*. ~~Public meetings; special meetings. State government reports.~~

(1) Existing law requires the State Architect to, by January 10 of each year, provide the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature a listing of expenditures for activities relating to local government buildings, as specified.

This bill would repeal this requirement.

(2) Existing law gives the Fair Employment and Housing Commission specified powers and duties, including issuing publications and results of inquiries and research that, in its judgment, will tend to promote good will and minimize or eliminate unlawful discrimination, as specified.

This bill would repeal this provision.

(3) Existing law requires the Director of General Services to, by March 1 of each year, prepare and submit to the Legislature, as specified, a report listing all leases entered into in the prior calendar

year with an option to purchase with another public or private entity that involve office space.

This bill would repeal that requirement.

(4) Existing law authorizes the Director of General Services to lease any real property owned by the state not exceeding 5 acres for a period not to exceed 25 years to governmental entities to further the state's mission to provide emergency services. Existing law requires the director to report annually to the Legislature concerning this authority.

This bill would repeal this reporting requirement.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body be open and public and all persons be permitted to attend. The act requires the body to provide notice and an agenda of a regular meeting at least 10 days in advance of the meeting but authorizes the calling of a special meeting for specified purposes when compliance with the 10-day notice would impose a substantial hardship on the state body or when immediate action is required to protect the public interest.

This bill would make a technical, nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 8878.97 of the Government Code is*
2 *repealed.*

3 ~~8878.97. The State Architect shall provide to the Joint~~
4 ~~Legislative Budget Committee and the chairpersons of the fiscal~~
5 ~~committees in each house of the Legislature a listing of~~
6 ~~expenditures for activities pursuant to this article by January 10~~
7 ~~of each year. This information shall be submitted either in the~~
8 ~~Governor's Budget documents or a separate report.~~

9 *SEC. 2. Section 12935 of the Government Code is amended to*
10 *read:*

11 12935. The commission shall have the following functions,
12 powers, and duties:

13 (a) To adopt, promulgate, amend, and rescind suitable rules,
14 regulations, and standards (1) to interpret, implement, and apply
15 all provisions of this part, (2) to regulate the conduct of hearings
16 held pursuant to Sections 12967 and 12981, and (3) to carry out

1 all other functions and duties of the commission pursuant to this
2 part.

3 (b) To conduct hearings pursuant to Sections 12967 and 12981.

4 (c) To conduct mediations at the request of the department at
5 any time after a complaint is filed pursuant to Section 12960,
6 12961, or 12980. The department may withdraw a request for
7 mediation at any time to pursue an investigation.

8 (d) To establish and maintain a principal office within the state
9 and to meet and function at any place within the state.

10 (e) To appoint an executive secretary, and any attorneys and
11 other employees as it may deem necessary, fix their compensation
12 within the limitations provided by law, and prescribe their duties.

13 (f) To hold hearings, subpoena witnesses, compel their
14 attendance, administer oaths, examine any person under oath and,
15 in connection therewith, to require the production of any books or
16 papers relating to any matter under investigation or in question
17 before the commission.

18 (g) To create or provide financial or technical assistance to any
19 advisory agencies and conciliation councils, local or otherwise, as
20 in its judgment will aid in effectuating the purposes of this part,
21 and to empower them to study the problems of discrimination in
22 all or specific fields of human relationships or in particular
23 instances of employment discrimination on the bases enumerated
24 in this part or in specific instances of housing discrimination
25 because of race, religious creed, color, national origin, ancestry,
26 familial status, disability, marital status, sex, or sexual orientation
27 and to foster, through community effort or otherwise, good will,
28 cooperation, and conciliation among the groups and elements of
29 the population of the state and to make recommendations to the
30 commission for the development of policies and procedures in
31 general. These advisory agencies and conciliation councils shall
32 be composed of representative citizens, serving without pay.

33 (h) With respect to findings and orders made pursuant to this
34 part, to establish a system of published opinions that shall serve
35 as precedent in interpreting and applying the provisions of this
36 part. Commission findings, orders, and opinions in an adjudicative
37 proceeding are subject to Section 11425.60.

38 ~~(i) To issue publications and results of inquiries and research~~
39 ~~that in its judgment will tend to promote good will and minimize~~
40 ~~or eliminate unlawful discrimination. These publications shall~~

1 ~~include an annual report to the Governor and the Legislature of its~~
2 ~~activities and recommendations.~~

3 ~~(j)~~

4 (i) Notwithstanding Sections 11370.3 and 11502, to appoint
5 administrative law judges, as it may deem necessary, to conduct
6 hearings and mediations. Each administrative law judge shall
7 possess the qualifications established by the State Personnel Board
8 for the particular class of position involved. The hearing officers
9 of the commission shall become administrative law judges on the
10 effective date of this subdivision.

11 *SEC. 3. Section 14669 of the Government Code is amended to*
12 *read:*

13 14669. (a) The director may hire, lease, lease-purchase, or
14 lease with the option to purchase any real or personal property for
15 the use of any state agency, including the Department of General
16 Services, if he or she deems the hiring or leasing is in the best
17 interests of the state.

18 (b) The director shall not enter into a lease-purchase agreement
19 that involves office space, unless specifically authorized to do so
20 by the Legislature. The director shall solicit written bids for any
21 lease-purchase that involves office space in a newspaper of general
22 circulation in the county in which the project is located. All bids
23 received shall be publicly opened and the lease awarded to the
24 lowest responsible bidder. If the director deems the acceptance of
25 the lowest responsible bid is not in the best interest of the state,
26 he or she may reject all bids.

27 ~~(c) Notwithstanding Section 7550.5, by March 1st of each year,~~
28 ~~the director shall prepare a report listing all leases entered into in~~
29 ~~the prior calendar year with an option to purchase with another~~
30 ~~entity, public or private, that involve office space. The report shall~~
31 ~~be submitted to the Chairperson of the Joint Legislative Budget~~
32 ~~Committee and the chairperson of the committee of each house of~~
33 ~~the Legislature that considers appropriations.~~

34 *SEC. 4. Section 14670.12 of the Government Code is amended*
35 *to read:*

36 14670.12. ~~(a)~~ Notwithstanding Section 14670, and with the
37 consent of the state agency concerned, the director may let any
38 real property owned by the state not exceeding five acres for a
39 period not to exceed 25 years, to governmental entities to further

1 the state's mission for providing emergency services, if he or she
2 deems it to be in the best interest of the state.

3 ~~(b) The director shall report annually to the Legislature on how~~
4 ~~the department is utilizing the authority granted under this section.~~

5 ~~SECTION 1. Section 11125.4 of the Government Code is~~
6 ~~amended to read:~~

7 ~~11125.4. (a) A special meeting may be called at any time by~~
8 ~~the presiding officer of the state body or by a majority of the~~
9 ~~members of the state body. A special meeting may only be called~~
10 ~~for one of the following purposes when compliance with the 10-day~~
11 ~~notice provisions of Section 11125 would impose a substantial~~
12 ~~hardship on the state body or when immediate action is required~~
13 ~~to protect the public interest:~~

14 ~~(1) To consider "pending litigation" as that term is defined in~~
15 ~~subdivision (c) of Section 11126.~~

16 ~~(2) To consider proposed legislation.~~

17 ~~(3) To consider issuance of a legal opinion.~~

18 ~~(4) To consider disciplinary action involving a state officer or~~
19 ~~employee.~~

20 ~~(5) To consider the purchase, sale, exchange, or lease of real~~
21 ~~property.~~

22 ~~(6) To consider license examinations and applications.~~

23 ~~(7) To consider an action on a loan or grant provided pursuant~~
24 ~~to Division 31 (commencing with Section 50000) of the Health~~
25 ~~and Safety Code.~~

26 ~~(8) To consider its response to a confidential final draft audit~~
27 ~~report as permitted by Section 11126.2.~~

28 ~~(9) To provide for an interim executive officer of a state body~~
29 ~~upon the death, incapacity, or vacancy in the office of the executive~~
30 ~~officer.~~

31 ~~(b) When a special meeting is called pursuant to one of the~~
32 ~~purposes specified in subdivision (a), the state body shall provide~~
33 ~~notice of the special meeting to each member of the state body and~~
34 ~~to all parties that have requested notice of its meetings as soon as~~
35 ~~is practicable after the decision to call a special meeting has been~~
36 ~~made, but shall deliver the notice in a manner that allows it to be~~
37 ~~received by the members and by newspapers of general circulation~~
38 ~~and radio or television stations at least 48 hours before the time~~
39 ~~of the special meeting specified in the notice. Notice shall be made~~
40 ~~available to newspapers of general circulation and radio or~~

1 television stations by providing that notice to all national press
2 wire services. Notice shall also be made available on the Internet
3 within the time periods required by this section. The notice shall
4 specify the time and place of the special meeting and the business
5 to be transacted. The written notice shall additionally specify the
6 address of the Internet Web site where notices required by this
7 article are made available. No other business shall be considered
8 at a special meeting by the state body. The written notice may be
9 dispensed with as to any member who at or prior to the time the
10 meeting convenes files with the clerk or secretary of the state body
11 a written waiver of notice. The waiver may be given by telegram,
12 facsimile transmission, or similar means. The written notice may
13 also be dispensed with as to any member who is actually present
14 at the meeting at the time it convenes. Notice shall be required
15 pursuant to this section regardless of whether any action is taken
16 at the special meeting.

17 (e) At the commencement of any special meeting, the state body
18 shall make a finding in open session that the delay necessitated by
19 providing notice 10 days prior to a meeting as required by Section
20 11125 would cause a substantial hardship on the body or that
21 immediate action is required to protect the public interest. The
22 finding shall set forth the specific facts that constitute the hardship
23 to the body or the impending harm to the public interest. The
24 finding shall be adopted by a two-thirds vote of the body, or, if
25 less than two-thirds of the members are present, a unanimous vote
26 of those members present. The finding shall be made available on
27 the Internet. Failure to adopt the finding terminates the meeting.